

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of:

Telephone Number Portability

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CC Docket No. 95-116

**COMMENTS OF  
T-MOBILE USA, INC.**

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## SUMMARY

T-Mobile urges the Commission to grant CTIA's Petition for Declaratory Ruling asking the Commission to clarify that wireline carriers are obligated to provide portability of their customers' telephone numbers to Commercial Mobile Radio Service ("CMRS") providers whose service area overlaps the wireline carriers' rate centers and that no agreement between the two carriers, beyond a standard service-level porting agreement, is necessary. As an initial matter, it is important to recognize that CTIA's Petition *is not* about when wireless carriers implement local number portability ("LNP"). Rather, the petition *is* about whether consumers will be able to port their numbers between wireline and wireless carriers once wireless carriers implement LNP.

The clarification that CTIA has requested is crucial to consumers because many wireline carriers are erroneously claiming that LECs are obligated to port numbers only to those carriers that already have their own numbering resources (*i.e.*, an NXX code assigned to the carrier by the North American Numbering Plan Administration ("NANPA")) in the rate center with which the number to be ported is associated. Wireless carriers typically do not have their own numbering resources in every rate center in which they provide service. Consequently, the majority of consumers will not be able to retain their numbers when changing carriers unless the Commission clarifies that carriers must port numbers to other carriers who serve the same rate center, regardless of whether the other carrier already has an NXX code assigned in that rate center, or the wireless carriers will be forced immediately to obtain NXX codes in every rate center they serve. The objectives that the Commission sought to achieve by ordering wireless carriers to implement LNP cannot be accomplished unless consumers can retain their numbers when changing carriers and adequate numbering resources are available to all carriers.

Failure to grant CTIA's Petition would have extremely serious consequences.

Either wireless carriers would be forced to obtain their own NXX code in every rate center in which they provide service, which would quickly overwhelm the nation's available numbering resources, or the Commission's LNP policies would be eviscerated because the majority of consumers will not be able to retain their numbers when changing carriers. In both cases, consumer confusion about the availability of LNP would have an anticompetitive effect on the marketplace. None of these results are acceptable. For similar reasons, the FCC should clarify that no agreement between a wireless carrier and a wireline carrier – beyond a standard service-level porting agreement – is necessary to implement porting.

Quick and decisive action by the Commission is crucial. The current dispute about the proper scope of porting obligations directly impacts the manner in which intermodal LNP is performed (*i.e.*, porting between wireline and wireless carriers), and thus it affects the choices that wireless carriers make with respect to implementation of LNP and the acquisition of additional numbering resources. The industry, which has been debating this issue for over five years, is hopelessly deadlocked, so the Commission must step in now to resolve the impasse.

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CC Docket No. 95-116

**COMMENTS OF T-MOBILE USA, INC.**

T-Mobile USA, Inc. ("T-Mobile")<sup>1</sup> submits these comments in response to the Federal Communications Commission's ("FCC" or "Commission") January 27, 2003 public notice requesting comment on the Cellular Telecommunications & Internet Association ("CTIA") Petition for Declaratory Ruling asking the Commission to rule that wireline carriers are obligated to provide portability of their customers' telephone numbers to Commercial Mobile Radio Service ("CMRS") providers whose service area overlaps the wireline carriers' rate centers and that no agreement between the two carriers, beyond a standard service-level porting agreement, is necessary.<sup>2</sup> The clarification that CTIA has requested is crucial because the majority of consumers will not be able to retain their numbers when changing carriers unless the Commission clarifies that carriers must port numbers to other carriers who serve the same rate center, regardless of whether the other carrier already has its own numbering resources in that rate center.

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<sup>1</sup> T-Mobile USA, Inc. (formerly known as VoiceStream Wireless Corporation), combined with Powertel, Inc., is the sixth largest national wireless provider in the U.S. with licenses covering approximately 94 percent of the U.S. population and currently serving over ten million customers. T-Mobile and Powertel, Inc. are wholly owned subsidiaries of Deutsche Telekom, AG and are part of its T-Mobile wireless division. Both T-Mobile and Powertel are, however, operated together and are referred to in these comments as "T-Mobile."

<sup>2</sup> *Telephone Number Portability*, CC Docket No. 95-116, Petition for Declaratory Ruling of the Cellular Telecommunications & Internet Association, filed January 23, 2003 ("*CTIA Petition*").

Failure to grant CTIA's Petition would have extremely serious consequences. Either wireless carriers would be forced to obtain their own NXX code in every rate center in which they provide service, which would quickly exhaust the nation's available numbering resources, or the Commission's LNP policies would be eviscerated because the majority of consumers will not be able to retain their numbers when changing carriers. In both cases, consumer confusion about the availability of LNP would have an anticompetitive effect on the marketplace. None of these results are acceptable.

Quick and decisive action by the Commission is crucial. The industry, which has been debating the issues raised in CTIA's Petition for over five years, is hopelessly deadlocked, so the Commission must step in now to resolve the impasse. Although T-Mobile did not support the FCC's decision to require wireless carriers to implement LNP, T-Mobile urges the Commission to grant CTIA's Petition because the efforts of the Commission and the states – not to mention the time and expense that the wireless carriers have incurred to implement LNP – will have been a complete waste if the majority of consumers cannot retain their numbers when changing carriers or if the nation's available numbering resources are exhausted.

**I. THE FCC SHOULD CLARIFY THAT WIRELINE CARRIERS MUST PORT TO WIRELESS CARRIERS SERVING THE RELEVANT RATE CENTER**

T-Mobile supports CTIA's Petition because the objectives that the Commission sought to achieve by ordering wireless carriers to implement LNP cannot be accomplished unless consumers can retain their numbers when changing carriers and adequate numbering resources are available to all carriers.

**A. The FCC Based its Decision To Require Wireless Carriers to Implement LNP on the Assumption that Consumers Could Keep Their Numbers When Changing Carriers and that Implementation of LNP Would Facilitate Number Pooling**

The Commission ordered wireless carriers to implement LNP based on its findings that wireless LNP would (1) enhance competition between wireless carriers, (2) promote competition between wireless and wireline carriers, and (3) have an impact on the efficient use and uniform administration of the numbering resource.<sup>3</sup> The Commission based its findings on the assumption that a consumer could retain its number when changing service providers, without regard to whether that service provider was wireline or wireless, and that the implementation of the location routing number (“LRN”) network architecture that enables LNP would allow wireless carriers to participate fully in number pooling.

1. *LNP could enhance competition only if consumers can retain their number when changing carriers.*

LNP could enhance competition between wireless carriers only if consumers have the ability to retain their number when changing wireless carriers. Likewise, LNP could promote competition between wireline and wireless carriers only if consumers have the ability to retain their number when changing from a wireline carrier to a wireless carrier. Indeed, the ability of consumers to keep their numbers when changing carriers was the fundamental basis for the Commission’s decision to require wireless carriers to implement LNP. As the Commission has explained, the “implementation of LNP, which would enable wireless subscribers *to keep their phone numbers when changing carriers*, would enhance competition between these [wireless]

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<sup>3</sup> See, e.g., *Verizon Wireless’s Petition for Partial Forbearance*, 17 FCC Rcd 14972, ¶ 2 (2002).

carriers as well as promote competition between wireless and wireline carriers.”<sup>4</sup> The Commission recently reaffirmed this conclusion, finding that, “as wireless service subscribers increase the frequency with which they give out their mobile number, we anticipate that an increasing number of consumers will be reluctant to change wireless service providers unless they can keep the same number,”<sup>5</sup> and that, “as more consumers choose to use wireless instead of wireline services, the inability to transfer their wireline number to a wireless service provider may slow the adoption of wireless by those consumers that wish to keep the same telephone number as they had with their wireline service provider.”<sup>6</sup>

2. *LNP could improve the efficiency with which numbers are used and the uniformity with which numbers are administered only if wireless carriers can continue to participate fully in number pooling.*

The Commission’s determination that requiring wireless carriers to implement LNP would improve the efficiency with which numbers are used and the uniformity with which numbers are administered was based solely on its finding that implementation of LNP would enable wireless carriers to participate fully in number pooling.<sup>7</sup> Since making that determination, the Commission has recognized that it is the implementation of LRN network

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<sup>4</sup> *Verizon Wireless’s Petition for Partial Forbearance*, 17 FCC Rcd 14972, ¶ 2 (2002) (emphasis added), citing *Telephone Number Portability*, 11 FCC Rcd 8352, 8434-36, ¶¶ 157-160 (1996) (“*First Report and Order*”).

<sup>5</sup> *Verizon Wireless’s Petition for Partial Forbearance*, 17 FCC Rcd 14972, ¶ 18 (2002).

<sup>6</sup> *Id.*

<sup>7</sup> See, e.g., *Numbering Resource Optimization*, 15 FCC Rcd 7574, ¶¶ 139-40 (2000) (“*First Report and Order*”) (ordering wireless carriers to participate in number pooling once they become LNP capable); *Numbering Resource Optimization*, 16 FCC Rcd 306, ¶ 50 (2000) (“*Second Report and Order*”) (declining to adopt a transition period between the time that CMRS carriers must implement LNP and the time they must participate in number pooling); *Numbering Resource Optimization*, 17 FCC Rcd 252, ¶ 23 (2001) (declining to alter the implementation date for covered CMRS carriers to participate in pooling, noting that it was in the public interest to require covered CMRS carriers to participate in pooling as soon as possible to maximize number utilization efficiency).



architecture – not LNP itself – that enables wireless carriers to participate in number pooling.

This recognition is important because, unlike number pooling, LNP is not a numbering optimization measure given that LNP does not itself improve the efficiency with which carriers utilize numbering resources.

Number pooling improves the efficiency with which numbering resources are utilized by facilitating the allocation of numbers in blocks of 1,000 rather than 10,000. In a number pool, a 10,000 block of numbers is assigned to one carrier for a given rate center, which then donates thousands-blocks of numbers with 10 percent or less contamination to the pool administrator for assignment to other carriers participating in the pool for that rate center.<sup>8</sup> This process relies upon the same LRN architecture used to route calls to ported numbers. The FCC based its conclusion that requiring wireless carriers to implement LNP would improve the efficiency with which numbering resources are utilized on the assumption that wireless carriers would be able to conduct intra-service provider ports of contaminated numbers and participate in

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<sup>8</sup> A separate number pool is established for each rate center. *See, e.g., Telephone Number Portability*, 11 FCC Rcd 8352, ¶185 (1996) (“In response to comments received from the NENA community regarding the potential problems with implementing thousands-block number pooling in a geographic area beyond the traditional rate center, we conclude that each thousands block pool should be confined to a rate center, which denotes the smallest geographic area used to distinguish rate center boundaries. Thus, each rate center would contain a separate pool of numbering resources.”)(citations omitted); *Numbering Resource Optimization*, 15 FCC Rcd 7574, ¶117 (2000) (“Also, because of the current wireline call rating mechanisms associating an NXX with a rate center, the proposed pooling methodologies would be based on the rate center structure in place in a given NPA. Therefore, each rate center would contain a separate pool of numbering resources.”); *Id.* at ¶58 (“Moreover, because numbers can only be pooled among carriers using numbers in a given rate center, each rate center within the pooled NPA would have to have its own pool.”).

the same number pools as the wireline carriers, as well as properly route calls to pooled numbers based upon the LRN.<sup>9</sup>

**B. The Position of the Wireline Carriers Would Prevent the Vast Majority of Consumers from Keeping Their Number When Changing Carriers and Diminish the Optimization Benefits of Pooling.**

As CTIA explained in its petition, many wireline carriers have taken the position that a LEC must port a number to a wireless carrier only where the wireless carrier already has its own numbering resources (*i.e.*, an NXX code) in the rate center with which the number is associated (*i.e.*, the wireless carrier has already applied for, and received, an assignment by NANPA of a block of 10,000 numbers for that rate center).<sup>10</sup> These wireline carriers have made clear that, based on this position, they will deny a consumer's request to port its number to a wireless carrier that does not already have an NXX code in the wireline rate center with which the number is associated.

The consequences of the position of these wireline carriers will be extremely severe once wireless LNP is implemented, because wireless carriers – unlike wireline carriers – typically do not have numbering resources in every rate center in which they provide service. Rather than requesting numbering resources within every rate center in their service areas, wireless carriers provide service to their local service area using numbers from only a few rate

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<sup>9</sup> The FCC's orders make clear that the FCC assumes that wireless carriers will participate in the same number pools as wireline carriers, not separate number pools specifically for wireless carriers. *See, e.g., Verizon Wireless's Petition for Partial Forbearance*, 17 FCC Rcd 14972, ¶ 26 (2002) (rejecting opposition to Verizon Wireless's Petition by states concerned that CMRS carriers were proposing some form of limited pooling that would result in number pools available to only one particular carrier, number pools segregated by type of carrier, or CMRS carriers not being able to donate numbers to pools).

<sup>10</sup> *CTIA Petition* at 3.

centers within the local calling area.<sup>11</sup> For this reason, the rate centers of wireless and wireline carriers overlap in only one of eight rate centers on average across the country. Indeed, in the states in which T-Mobile provides service, T-Mobile has numbering resources in only 12.6 percent of the total rate centers. Consequently, if LECs only accept consumers' requests to port their number to wireless carriers in rate centers where the wireless carriers have NXX assignments, no consumers will be able to port their number to wireless carriers in *seven out of every eight rate centers across the United States*.

The position of the wireline carriers has serious consequences not only for consumers requesting to port their number between wireline and wireless carriers, but also for consumers requesting to port their number between wireless carriers themselves. A consumer could not retain its number when changing wireless carriers unless both carriers had a presence in the same rate center. Not all wireless carriers serving the same Metropolitan Statistical Area ("MSA") have a presence in the same rate centers. As explained above, wireless carriers frequently serve an entire MSA using numbering resources from only a few rate centers. Thus, competing wireless carriers may serve the same MSA using numbers from different rate centers. Under these circumstances, a consumer would not be able to retain its number when changing between wireless carriers if carriers cannot port numbers to carriers that do not have their own numbering resources in the same rate center, as advocated by the wireline carriers. In some

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<sup>11</sup> See, e.g., *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, 17 FCC Rcd 12985, 13005 (2002) ("wireless carriers have considerable discretion in how they assign telephone numbers across the rate centers in their operating areas. In other words, a mobile telephone subscriber can be assigned a phone number associated with a rate center that is a significant distance away from the subscriber's place of residence . . .").

areas, this could deprive the majority of consumers from retaining their number when changing wireless carriers.

The position of the wireline carriers could also have serious consequences for number pooling. Specifically, if the logic of the wireline carriers were applied to pooling (as it presumably would since pooling relies upon the same LRN network architecture used to perform porting), then a carrier could not receive an initial thousands-block of numbers from a number pool unless the carrier already had a full NXX code in that rate center. Consequently, carriers that only needed an initial thousands-block of numbers in a rate center would be forced to apply for a full 10,000 block of numbers. This would increase the amount of stranded numbers and accelerate numbering exhaust. Hence, applying the wireline rate center restriction logic to pooling would diminish the number optimization benefits of pooling. There is no reason to change the way pooling works today, which also demonstrates that there is no reason to require carriers to obtain their own NXX code in a rate center before a consumer could port a number to the carrier in that rate center.

C. **There is no Legal or Technical Support for the Position of the Wireline Carriers**

The wireline carriers base their position that a LEC must port a number to a wireless carrier only where the wireless carrier already has its own NXX code in the same rate center on a very narrow interpretation of their LNP obligations under the Act and the Commission's rules. However, there is no statutory or regulatory requirement that a wireless carrier have a presence in a rate center before the LEC must port a number associated with that rate center to the wireless carrier at the request of the consumer. Likewise, there is no technical

reason why a carrier must have a presence in a rate center before the LEC must port a number associated with that rate center to the wireless carrier at the request of a consumer.

- I. *Neither the Act nor the FCC's Rules require a carrier to obtain an NXX in a rate center before a consumer can port its number to the carrier in that rate center.*

The Telecommunications Act of 1996 (the "Act") requires all LECs "to provide, to the extent technically feasible, number portability in accordance with the requirements prescribed by the Commission."<sup>12</sup> The Act defines the term "number portability" as "the ability of users of telecommunications services to retain, *at the same location*, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."<sup>13</sup>

In adopting number portability requirements pursuant to the Act, the Commission identified three types of number portability – Service Provider Portability, Location Portability<sup>14</sup> and Service Portability<sup>15</sup> – but found that the Act mandates only Service Provider Portability,<sup>16</sup> which the Commission defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality,

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<sup>12</sup> 47 U.S.C. § 251(b)(2).

<sup>13</sup> 47 U.S.C. § 153(30) (emphasis added).

<sup>14</sup> The term "location portability" is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when moving from one physical location to another." *Telephone Number Portability*, 11 FCC Rcd 8352, ¶174 (1996).

<sup>15</sup> The term "service portability" is defined as "the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications service to another service provided by the same carrier" (for example, from POTS to ISDN). *Telephone Number Portability*, 13 FCC Rcd 21204, n.13 (1998).

<sup>16</sup> *Telephone Number Portability*, 11 FCC Rcd 38687, ¶181 (1996).

reliability, or convenience when switching from one telecommunications carrier to another.”<sup>17</sup>

The Commission explained that the “Act’s requirement to provide number portability is limited to situations when users remain ‘*at the same location*’ and ‘switch[] from one telecommunications carrier to another.’”<sup>18</sup>

The Act does not preclude mandatory location or service portability if the FCC determines it to be in the public interest, but the FCC found that the public interest would not be served by mandating location or service portability at the time that it implemented the Act’s LNP requirements.<sup>19</sup> Accordingly, the Commission’s rules require LECs to provide service provider portability, but not service or location portability.<sup>20</sup> Consequently, a LEC has no obligation to port the telephone number of a former customer to that customer’s new carrier if the customer is also moving from one physical location to another. However, nothing in the Act or the Commission’s rules – including the report to the Commission prepared by the North American Numbering Council’s (“NANC”) Local Number Portability Administration Selection Working Group, dated April 25, 1997 (Working Group Report)<sup>21</sup> – requires the customer’s new carrier first

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<sup>17</sup> *Telephone Number Portability*, 13 FCC Rcd 11701, ¶3 (1998) (emphasis added). *See also* 47 U.S.C. § 153(30).

<sup>18</sup> *Telephone Number Portability*, 13 FCC Rcd 21204, n.13 (1998) (emphasis added).

<sup>19</sup> *See, e.g., Cellular Telecommunications Industry Association’s Petition for Forbearance from Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability*, 14 FCC Rcd 3092, n.14 (1999); *Telephone Number Portability*, 11 FCC Rcd at 8447, ¶¶181-82.

<sup>20</sup> *Id.* *See generally* 47 C.F.R. §§ 52.21-52.33 (Subpart C of the FCC’s Rules – Local Number Portability).

<sup>21</sup> Section 52.26(a) of the Commission’s rules provides that “[l]ocal number portability administration shall comply with the recommendations of the NANC as set forth in the report to the Commission prepared by NANC’s Local Number Portability Administration Selection Working Group, dated April 25, 1997 (Working Group Report), and its appendices, which are incorporated by reference . . .” 47 C.F.R. §52.26(a).

to obtain its own numbering resources in that rate center before the customer's former carrier – the LEC – must port the number to the new carrier, and the FCC has never suggested otherwise.

The rate-center disparity issue raised by many wireline carriers is also a red herring. Specifically, the wireline carriers argue that intermodal porting is inconsistent with the Act and the FCC's orders because numbers allegedly can be ported from wireless to wireline carriers only within the wireline carriers' rate center while numbers can be ported from wireline to wireless carriers throughout the wireless carriers' service area.<sup>22</sup> This, of course, is not accurate because a consumer could port any number from a wireless carrier to a wireline carrier so long as both carriers serve the same area – just as a consumer could port any number from a wireline carrier to a wireless carriers so long as both carriers serve the same area. It is the intent of the wireless industry that consumers be allowed to port their number between wireless carriers that have the same local serving area, even though both carriers may not have NXX codes in the same rate center. Likewise, it is technically feasible to port within the same local serving area between wireline and wireless carriers without having NXXs in the same rate centers.

To the extent that a consumer wants to port a number from a wireless carrier to a wireline carrier for service at a location outside of the rate center with which the number is associated, the wireline carrier could provide service to the customer on an Foreign Exchange ("FX") or virtual FX basis. By definition, the wireline carrier would not have to forego toll billing to offer this service on an FX or virtual FX basis because the number would have come from a wireless service provider in the same local calling area. Therefore, the cost to the wireline carrier for offering the service on an FX or virtual FX basis would be nominal. In any

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<sup>22</sup> See, e.g., CTIA Petition at 4-12 (summarizing rate center disparity dispute).

event, the frequency with which a consumer would port a number from a wireless carrier to a wireline carrier under circumstances where the wireline carrier would be forced to offer service on an FX or virtual FX basis will most likely be very small, representing only a fraction of all ported calls.

2. *No technical requirement mandates that a carrier have its own numbers in a rate center before other carriers can port numbers to that carrier.*

There is no technical reason why a carrier – whether wireless or wireline – must have its own NXX code in a rate center before other carriers can port a number within the same local serving area to the carrier. When implementing the Act's LNP requirements with respect to wireline carriers, the FCC – including the NANC at the Commission's direction – explored the technical limitations of the various types of LNP. With respect to the LRN-LNP methodology that the FCC selected, only one technical limitation has been identified: the ability of wireline carriers to provide location portability (or service portability) extending beyond the boundaries of the rate center with which the number is associated.<sup>23</sup> Due to this technical limitation, the recommendations of NANC, which are incorporated into the Commission's rules,<sup>24</sup> are based upon the fundamental assumption that "location portability is technically limited to rate center/rate district boundaries of the incumbent LEC due to rating/routing concerns."<sup>25</sup>

Numerous Commission orders similarly reflect the assumption that, due to technical limitations,

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<sup>23</sup> The technical limitations for wireless LNP have been identified and largely addressed, and thus are not discussed in these comments.

<sup>24</sup> 47 C.F.R. §52.26(a).

<sup>25</sup> NANC LNP Architecture Task Force, Architecture & Administrative Plan for LNP, "Issue – 1, Revision 3," §7.3 (April 23, 1997).



numbers cannot be ported across rate center boundaries.<sup>26</sup> However, the Commission has acknowledged that the Working Group “focused primarily on the wireline segment of the industry . . . and did not fully consider issues relating to CMRS.”<sup>27</sup> The Commission noted that “the NANC did not make recommendations regarding the implementation of number portability by CMRS providers,” and consequently directed the NANC to develop recommendations that would allow CMRS providers to participate fully in LNP.<sup>28</sup>

None of the Commission’s orders or rules reflects the assumption that a carrier must have its own numbering resources in a rate center before other carriers can port numbers associated with that rate center to the carrier. So long as a carrier has obtained an LRN in the Local Access and Transport Area (“LATA”) in which the relevant rate center is located, any number from any rate center located within the same LATA can be ported to that carrier under

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<sup>26</sup> For example, the FCC has explained that number pooling, and thus number porting, could only be extended beyond the rate center “if methods to eliminate the link between call rating and NXX codes using the SS7 network were implemented,” *Id.* at n.239, and that the porting of numbers across rate center boundaries could lead to the improper routing of emergency 911 calls. *See, e.g., Telephone Number Portability*, 11 FCC Rcd 8352, ¶185 (1996). These findings are consistent with those that the Commission cited when it rejected mandatory location portability. *See, e.g., Telephone Number Portability*, 11 FCC Rcd 8352, ¶¶176, 184-85 (1996). The Commission noted widespread agreement that “implementation of location portability poses many problems, including: (1) loss of geographic identity of one’s telephone number; (2) lack of industry consensus as to the proper geographic scope of location portability; (3) substantial modification of billing systems and the consumer confusion regarding charges for calls; (4) loss of the ability to use 7-digit dialing schemes; (5) the need to restructure directory assistance and operator services; (6) coordination of number assignments for both customer and network identification; (7) network and switching modifications to handle a two-tiered numbering system; (8) development and implementation of systems to replace 1+ as toll identification; and (9) possible adverse impact on E911 services.” *Id.* at ¶176 (citations omitted).

<sup>27</sup> *Telephone Number Portability*, 12 FCC Rcd 12281, ¶ 14 (1997).

<sup>28</sup> *Id.*

the LRN-LNP methodology.<sup>29</sup> Therefore, any suggestion that a carrier must obtain its own numbering resources in a rate center before other carriers are technically able to port numbers to that carrier is without basis in fact.

**D. Failure to Grant CTIA's Petition Promptly so that Consumers Can Keep Their Numbers When Changing Carriers Would Have Serious Consequences.**

T-Mobile urges the Commission not to underestimate the potential magnitude of the negative consequences that will result if the position of the wireline carriers is explicitly or implicitly endorsed. If a carrier must obtain its own numbering resources in a rate center before other carriers will port numbers associated with that rate center to the carrier, then consumers would not be able to retain their number when changing from wireline to wireless carriers, or even from wireless to wireless carriers, in seven out of every eight rate centers in the United States. If the majority of consumers are not able to keep their number when changing carriers, then the competitive reasons that led the Commission to mandate wireless LNP would no longer be valid, and the time and efforts of the Commission and the states – not to mention the time and expense that wireless carriers incurred to update their Operational Support Systems (“OSSs”) and implement the inter-carrier communication process to accommodate LNP – will have been wasted. Rather than eliminating competitive barriers, LNP would actually create customer confusion and restrict competition in many instances.

The only way that wireless carriers could overcome the competitive problems created by the position of the wireline carriers would be to apply for NXX code in every rate

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<sup>29</sup> The carrier obviously must be capable of providing service to that rate center (*e.g.*, have the facilities (whether owned or leased) and any necessary interconnection agreements) of providing service to that rate center. However, the carrier does not need to obtain its own numbers in that rate center to be capable of providing service with a ported number.

center in which they provide service so that customers of wireline carriers could port their numbers to the wireless carriers. Moreover, if the flawed logic of the wireline carriers were extended to pooling, the wireless carriers would have to apply for full NXX codes, even in rate centers with number pools, because a wireless carrier could not obtain a block of 1,000 numbers from a pool until it obtained its own NXX code in that rate center.

The consequences on the nation's supply of available numbering resources would be overwhelming if wireless carriers were forced to request NXX codes in every rate center in which they provide service. As a result of this development, the stranded number problem would be exacerbated, which would quickly lead to the exhaust of many area codes and perhaps of the NANP itself. There is no possible justification for requiring wireless carriers to adopt the inefficient numbering practices of wireline carriers and jeopardize the gains that the FCC has achieved through implementing numbering optimization means.

**II. THE FCC SHOULD AFFIRM THAT A SERVICE-LEVEL PORTING AGREEMENT IS SUFFICIENT TO FACILITATE PORTING BETWEEN TWO CARRIERS**

T-Mobile urges the Commission to affirm that a carrier's obligation to port a number to another carrier – whether wireline or wireless – is not conditioned upon the existence of an interconnection agreement between the two carriers. Rather, only a service-level porting agreement between the two carriers is necessary to facilitate the inter-carrier communication process necessary to port a consumer's number between carriers. Therefore, the implementation of LNP does not require wireless carriers to negotiate new interconnection agreements, or amendments to existing interconnection agreements, with all other carriers in their service areas. Rather, wireless carriers need only to negotiate service-level porting agreements to define the

business arrangements required to support the inter-carrier communication process to port a consumer's number between carriers.

Nothing in the Act conditions the obligation of an LEC to port a consumer's number to another carrier on the existence of an interconnection agreement between the two carriers. Likewise, nothing in the Commission's rules conditions the obligation of any carrier to port a consumer's number to another carrier on the existence of an interconnection agreement between the porting carriers. As a practical matter, only a service-level porting agreement is necessary to define the business arrangements and inter-carrier communication procedures required to process a consumer's port request. Although a service-level porting agreement may not be necessary if an interconnection agreement addresses the rights and responsibilities of the carriers with respect to porting, an interconnection agreement is not necessary to facilitate porting if the carriers instead have a service-level porting agreement.

### III. CONCLUSION

For the foregoing reasons, the FCC should grant CTIA's Petition for Declaratory Ruling.

Respectfully submitted,

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Dated: February 26, 2003

**CERTIFICATE OF SERVICE**

I, Beatriz Viera-Zaloom, hereby certify that on this 26<sup>th</sup> day of February 2003, a copy of the foregoing was served by hand-delivery upon the following:

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